

15 AAC is amended by adding a new chapter to read:

**Chapter 52. VEHICLE RENTAL TAX.**

**15 AAC 52.010. Return and remittance requirements.** (a) A person required to collect from the renter and remit to the department a vehicle rental tax imposed by AS 43.52 shall file one return, made under penalty of perjury, on a form provided by the department, reporting:

- (1) all charges incurred by renters for the lease or rental from the person of passenger and recreational vehicles, and
- (2) exemptions from the tax.

(b) The filing of the return and the remittance of the total tax, must be made not later than April 30, July 31, October 31, and January 31, for the calendar quarters ending March 31, June 30, September 30, and December 31, respectively, as may be extended under 15 AAC 05.310(h).

(c) For purposes of this chapter, a lease or rental includes a lease or rental between related persons. (Eff. / / , Register )

Authority: AS 43.05.080

AS 43.52.050

AS 43.52.080

**15 AAC 52.020. Collection of the tax.** (a) A lease or rental is subject to the tax collection requirement at the completion or close of the lease or rental contract.

(b) The tax is levied upon the renter and collected by the lessor in trust. The

lessor is liable to the department for the amount of the tax if the lessor fails to collect the tax at the time required by this chapter.

(c) The lessor has the same legal rights to collect the tax from the renter as he has to collect the consideration for the lease or rental. The obligation of the renter for the tax is satisfied upon payment to the lessor. The lessor is liable for the tax upon collection and the department may assess the tax, interest, and penalties against the lessor as provided in this title.

(d) The form of the transaction controls in this chapter unless the department determines the form of the transaction is a sham. (Eff. / / , Register )

Authority: AS 43.05.080

AS 43.52.050

AS 43.52.080

**15 AAC 52.030. Exempt leases and rentals.** (a) The lease or rental to a person on behalf of a federal, state, or local government agency for official use is exempt provided that the individual taking possession of the leased or rented vehicle provides the lessor with a government use exemption certificate at the time the rental contract is executed. A federal agency includes instrumentalities of the federal government.

(b) A lease or rental contract that contains a term exceeding 90 consecutive days is exempt from the tax in this chapter. Lease extensions, renewals, and new or supplemental contracts may not be combined with previous contracts in determining

whether a lease or rental contains a term exceeding 90 consecutive days. A lease or rental contract that contains a term exceeding 90 consecutive days that is closed on or before the 90<sup>th</sup> day is subject to the tax.

Authority: AS 43.05.080

AS 43.52.080

AS 43.52.090

**15 AAC 52.040. Government use exemption certificate.** (a) A lessor shall obtain a government use exemption certificate in a manner prescribed by the department for each exempt lease or rental. The government use exemption certificate shall be a form prescribed by the department except that a lessor may incorporate, directly or as an addendum, the information on the department form into the lessor's contract form in lieu of using the department form. The government use exemption certificate must specify the nature of the exemption and must contain a signed certification by the renter that the lease or rental is authorized by the government agency for official use.

(b) A government use exemption certificate must be signed by the individual taking possession of the leased or rented vehicle. The individual must provide proof of employment or other official status with the exempt agency to the lessor. The lessor shall confirm on the certificate that proof of employment or official status was provided.

(c) A person executing a government use exemption certificate who subsequently uses the vehicle for a period of time that is not authorized by the

government agency for official use is subject to the tax. The person shall inform the lessor upon the return of the vehicle and shall pay any tax that is due. The tax due, if any, is the tax on the difference between the fees and costs authorized by the government agency and the total fees and costs for the lease or rental.

(d) The lessor is not liable for the collection and remittance of the tax where a government use exemption certificate has been executed by the renter. The liability for the tax is placed upon the renter, who shall file a return and remit the tax to the department, if the lease or rental is not exempt and the renter fails to notify and pay the tax to the lessor upon the return of the vehicle. (Eff. / / , Register )

Authority: AS 43.05.080

AS 43.52.080

AS 43.52.090

**15 AAC 52.900. Transition.** The tax in this section applies to a lease or rental contract executed before January 1, 2004, but only to the fees and costs applicable to the period after December 31, 2003. An apportionment or allocation based upon days or hours shall be made if necessary to determine the amount of the contract fees and costs subject to the tax. (Eff. / / , Register )

Authority: AS 43.05.080

AS 43.52.080

**15 AAC 52.905. Definitions.** In AS 43.40 and this chapter:

(1) "all charges incurred" means the total compensation for the lease or rental of

a passenger or recreational vehicle without regard to billing practices, credit procedures, or bad debts and includes amounts paid to, or retained by, travel and other agents as a commission or fee for services related to the leasing or rental of a passenger or recreational vehicle; separately itemized charges for personal property such as pots, pans, and linens included in the rental of a recreational vehicle, cancellation fees and certain adjustments made at the end of a contract such as for fuel, are not charges incurred for the lease or rental of a passenger vehicle;

(2) "calendar quarter" means the period of three calendar months of the calendar year each beginning January 1, April 1, July 1, and October 1;

(3) "government use exemption certificate" means the form required by the department for a lessor to make a lease or rental that is not subject to the tax;

(4) "day" means a period of 24 consecutive hours;

(5) "department" means the Department of Revenue;

(6) "federal, state, or local government agency" means domestic federal, state, and local agencies, as well as foreign agencies exempt by federal law from the tax and which possess a tax exemption card issued by the United States Department of State;

(7) "lessor" means the person who provides the leased or rented vehicle to a renter and who is licensed to conduct the rental business;

(8) "licensed" means regulated or required to be qualified by the applicable government authorities; the failure of a person to obtain all appropriate licenses does not relieve the person from the liability and obligations imposed by this chapter;

(9) "official use" means a use in furtherance of an authorized purpose of the agency; the authorization and payment by a government agency of the fees and costs for the rental or lease satisfies the official use requirement except for a use by a government contractor or other agent in performance of a contract with the government agency or a use by an employee of a government agency for a purely personal purpose;

(10) "person" means an individual, firm, partnership, joint venture, government or military agency, association, corporation, estate, trust, receiver, or any other group or combination acting as a unit;

(11) "proof of employment or other official status" means a picture identification card issued by or on behalf of an exempt agency, a business card of the individual containing an official seal, a letter on the official letterhead of the agency, or some other reasonable means of identification;

(12) "related person" has the meaning of related person in 26 U.S.C. 267 and 26 U.S.C. 318;

(13) "renter" means the person subject to the lease or rental contract with the lessor. (Eff. / / , Register )

Authority: AS 43.05.080

AS 43.52.080

28 U.S.C. 1602 - 1611